Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petitions of the Verizon Telephone	)	WC Docket No. 06-172
Companies for Forbearance Pursuant to	)	
47 U.S.C. § 160(c) in the Boston, New	)	
York, Philadelphia, Pittsburgh,	)	
Providence and Virginia Beach	)	
Metropolitan Statistical Areas	)	
	)	

REPLY COMMENTS OF THE CITY OF PHILADELPHIA

ON

THE PETITION OF THE VERIZON TELEPHONE COMPANIES FOR FORBEARANCE PURSUANT TO 47 U.S.C. § 160(C) IN THE PHILADELPHIA METROPOLITAN STATISTICAL AREA

INTRODUCTION

The City of Philadelphia (the "City") appreciates the opportunity to respond to the Comments filed earlier in this proceeding. The extensive Comments which have been submitted document that there are significant distinctions at several levels in the decision-making context between the Omaha matter, in which the Commission in part granted Qwest's Petition for Forbearance, and the current Verizon Petition for Forbearance in the Philadelphia MSA. These include 1) the state of competition in the respective metropolitan markets, 2) the extent of relief sought by Qwest and Verizon in their respective Petitions for Forbearance, and 3) the consequences which would likely follow if Verizon were to be granted forbearance. Based on its review of Comments filed, the City is even more strongly persuaded that it would be a serious disservice to the public if the Commission were to grant the Verizon Petition for Forbearance in the Philadelphia MSA on the basis of the record which has been established.

1. Verizon remains a dominant carrier in the Philadelphia MSA, and existing competition would be diminished if its Petition were granted.

Like the City of New York ("New York"), the City of Philadelphia strongly supports initiatives that would further competition in our metropolitan area, but seriously questions whether the relief sought by Verizon through its Petitions would be pro-competitive. Like New York, the City of Philadelphia believes that the far more probable result would be a dampening of competition in our area. As pointed out by New York, many competitors of Verizon still have a continued dependence on Verizon's wholesale inputs available through the unbundling requirements that Verizon seeks to escape. In the Philadelphia area a clear example is Cavalier Communications, Inc., which relies heavily on access to Verizon's ubiquitous loop and transport facilities to serve its primarily residential customers, as highlighted in the comments of the Pennsylvania Public Utility Commission ("PaPUC").

As New York also stresses, while there may be a number of providers which offer some form of telecommunications service in the metropolitan area, the ability of many of these providers to provide a true substitute to traditional telephone service offered by Verizon is limited, and it is critical to review the degree to which competition is available in particular market segments. Pricing, quality of service and other issues make wireless telephony or VoIP service impractical for many market segments as a full substitute to traditional wireline service. Furthermore, the reach of independent fiber optic lines that could be a substitute to the Verizon network is far from ubiquitous. Cable networks constructed to provide residential service frequently do not extend into industrial and commercial locations. Fiber optic networks oriented to business customers generally have been installed only in the dense commercial core areas, poorly serving many small businesses or industrial centers in less central locations. As New York concludes, it cannot be overlooked that Verizon's continuing position is that of the incumbent Local Exchange Carrier; there is still no duplicate local exchange network. The same holds true for Philadelphia. Ultimately most traffic must traverse the Verizon network at some point for completion.

Despite Verizon's attempt to paint a picture of intense competition for telecommunications services in the Philadelphia area, the fact is that Verizon is overwhelmingly the dominant carrier. This is made clear by analysis of either rates or market share. The Comments filed by the National Association of State Utility Consumer Advocates ("NASUCA") question Verizon's reliance on the simple fact of a decline in the number of wired access lines to support its claims for the existence of extensive competition. NASUCA notes that the more accurate barometer for the presence of competition within an MSA would be a demonstration that retail rates have declined in the face of that competition. NASUCA points out that Verizon has actually sought price increases for its bundled services packages in several states including Pennsylvania, Maryland, Massachusetts and New Jersey, which is not the type of behavior expected of a carrier in a competitive market. With respect to market share, Comcast's Comments highlight the 80% market share which ILECs hold in Pennsylvania, in striking contrast to the less than 50% ILEC market share which the FCC apparently found present in areas of Omaha. (See §43 of the Omaha Order.) As the PaPUC points out, the FCC itself held that its Omaha Order granting Qwest's Petition for Forbearance was based on unique evidentiary considerations in the Omaha MSA. Such considerations evidently included an analysis of competitive data on a wire center basis rather than on a MSA-wide basis, as well as an FCC finding that Qwest rival Cox Communications, Inc. had acquired a substantial customer base for the delivery of wireline voice service over its network. Verizon has neither documented, nor would be able to document, evidence that competitive alternatives to its network are available on a ubiquitous basis throughout the Philadelphia MSA.

<u>2. While claiming that it is seeking forbearance from regulation similar to that already granted to Qwest in the Omaha matter, Verizon in fact has overreached in seeking forbearance from a wider set of regulations.</u>

The NASUCA Comments cogently discuss the extent to which Verizon's current Petitions for Forbearance, while purporting to make claims for regulatory relief substantially the same as that already granted by the Commission to Qwest in the Omaha matter, actually go significantly further. For example, Verizon seeks to avoid its obligation to provide non-discriminatory access to its network pursuant to the <u>Computer III</u> regulations. It also seeks to escape price cap regulations and service quality regulations. The City agrees with both NASUCA and the PaPUC that the Verizon Petitions must be considered in the context of the recent approval of the merger of Verizon and MCI, and that it is inappropriate for Verizon to use these Petitions as a way of escaping conditions which the Commission has recently imposed as conditions on the merger approval in order to assure that it would be in the public interest. Furthermore, the City supports the PaPUC in its arguments against grant of the Verizon Petitions with respect to Philadelphia and Pittsburgh on the basis that it could undermine the state-specific merger findings and conditions which the PaPUC imposed on Verizon under Pennsylvania law.

3. In contrast to the Omaha matter, the consequences of granting Verizon's current Petitions for Forbearance would involve greater harm to the public.

The City in its Comments has already emphasized that its unique demographic characteristics, particularly the high relative and absolute size of its lower-income population and the high proportion of older adults among its citizens, call for particular consideration to the impact which a grant of forbearance from regulation would have on such segments of telecommunications users. Not all consumers have equal access to alternative services, and it has already been documented that elderly and low-income groups are less likely to have alternative competitive services available, and are less likely to make use of new technologies that theoretically could provide competitive alternatives. The PaPUC has noted that Cavalier, which relies upon use of Verizon's unbundled network elements pursuant to regulatory scheme that Verizon now seeks to escape, is one telecommunications provider which serves a particular niche in North Philadelphia, an area where lower incomes and lower credit ratings have discouraged other telecommunications carriers from focusing their market efforts. If Verizon's Petition for Forbearance in Philadelphia were to be granted, it is likely that the negative effects will be felt most keenly among the large numbers of poor and elderly in the City, and in areas such as North Philadelphia.

CONCLUSION

Verizon has not presented the type of evidence which is required in order to be granted forbearance from regulation pursuant to Section 160(c), and which the FCC required in the Omaha case in order to grant Qwest's Petition for Forbearance. Verizon's Petition does not contain extensive evidence establishing that competitive alternatives are available on a ubiquitous basis throughout the Philadelphia MSA. Moreover, even if competitive alternatives to the Verizon network were to be demonstrated, there are significant segments of the Philadelphia area market which do not have equal access to the alternative service technologies which do exist, and which would be harmed if Verizon were granted its request to be freed from the normal regulatory requirements that routinely govern telecommunications markets throughout the nation. Even if it may be deemed appropriate to designate some regions of the country to test a departure from the routine regulatory scheme, Philadelphia is not an appropriate area to select for such experimentation.

For the foregoing reasons, the City of Philadelphia respectfully requests that the Commission deny Verizon's Petition for Forbearance.

Dated: April 18, 2007

Respectfully submitted,

THE CITY OF PHILADELPHIA

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